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8 Attorneys for Defendant
9 COUNTY OF MARIN

10
11 UNITED STATES DISTRICT COURT
12
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 SEAPLANE ADVENTURES, LLC, a California
16 Limited Liability Company

17 Plaintiff,

18 v.

19 COUNTY OF MARIN, CALIFORNIA; AND
20 DOES 1 THROUGH 10, Inclusive,

21 Defendant.

Case No.: 20-cv-06222-WHA

**DECLARATION OF SERGEANT
BRENTON SCHNEIDER IN SUPPORT OF
DEFENDANT COUNTY OF MARIN'S
MOTION FOR SUMMARY JUDGMENT**

Complaint filed: September 2, 2020

Date: October 7, 2021
Time: 8:00 AM
Judge: Honorable William Alsup
Dept: Courtroom 12, 19th Floor

22 I, SERGEANT BRENTON SCHNEIDER, declare as follows:

23 1. I am employed as a Sergeant in the Marin County Sheriff's Office. I submit this
24 declaration in support of the motion for summary judgment filed by the County of Marin ("County") in
25 this matter. I have personal knowledge of the contents of this declaration, except as to any matters
26 stated on information and belief, and as to those matters, I am informed and believe them to be true. If
27 called as a witness, I could and would competently testify to the matters set forth in this declaration.

28 2. Since July 2019, I have served as the Public Information Officer for the Marin County
Sheriff's Office. My duties include managing official communications and publicity efforts for the

1 Sheriff's Office, and serving as a liaison for communications between the Sheriff's Office (and County)
2 and individuals and businesses in the community.

3 3. In 2020, my duties included managing official communications and publicity efforts
4 related to County's response to the COVID-19 pandemic, including the various health orders and other
5 guidance issued through Public Health Officer Dr. Matthew Willis. In connection with these duties, I
6 communicated with County staff working on the County's response, including Dr. Willis and attorneys
7 from the County Counsel's office.

8 4. In June 2020, I understand that Dr. Willis and other County staff received reports that
9 Plaintiff in this case, Seaplane Adventures, LCC, was operating recreational tour flights in violation of
10 the health orders in effect at that time. After consulting with the County Counsel's office, I sent an
11 email to Plaintiff's CEO, Aaron Singer, on June 11, 2020, stating in relevant part that Plaintiff needed
12 "to cease any operations related to commercial sight-seeing flights." Mr. Singer responded to me via
13 email on June 12, 2020. I replied to Mr. Singer via email on June 15, 2020 with a fuller explanation of
14 how the terms of the health orders applied to Plaintiff, including most specifically that Plaintiff was
15 permitted to provide for "essential travel," but not for travel that was strictly recreational, such as
16 scenic tours. A true and correct copy of the email chain containing these communications is attached
17 hereto as Exhibit 12.

18
19 I declare under penalty of perjury under the laws of the State of California that the foregoing is
20 true and accurate to the best of my knowledge

21 Executed on August 30, 2021, in San Rafael, California.

22
23 By:


Sgt. Brenton Schneider

EXHIBIT 12

From: [Schneider, Brenton](#)
To: [Aaron Singer](#)
Subject: RE: Operations during COVID-19
Date: Monday, June 15, 2020 12:13:00 PM

Mr. Singer:

I have worked with County staff to review your email and the County's position is that your operations are a clear violation of the current order. Here is further explanation.

Our position:

- Seaplane scenic tours and/or leisure travel services are not expressly called-out as an allowed "additional business" under the June 5 modification to Appendix C-1 (<https://coronavirus.marinhhs.org/appendix-c-1-additional-businesses-permitted-operate>)
- However, to the extent your business provides flights for limited, authorized travel purposes (i.e. not sightseeing or leisure travel to Lake Tahoe), you can provide passengers with flights that allow for "essential travel" under the County's May 15, 2020 Shelter in place order. Here is the County's definition:

"Essential Travel" means travel for any of the following purposes:

- i. Travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses, Minimum Basic Operations, Outdoor Activities, Outdoor Businesses, Additional Activities, and Additional Businesses.
- ii. Travel to care for any elderly, minors, dependents, or persons with disabilities.
- iii. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
- iv. Travel to return to a place of residence from outside the County.
- v. Travel required by law enforcement or court order.
- vi. Travel required for non-residents to return to their place of residence outside the County. Individuals are strongly encouraged to verify that their transportation out of the County remains available and functional prior to commencing such travel.
- vii. Travel to manage after-death arrangements and burial.
- viii. Travel to arrange for shelter or avoid homelessness.
- ix. Travel to avoid domestic violence or child abuse.
- x. Travel for parental custody arrangements.

- xi. Travel to a place to temporarily reside in a residence or other facility to avoid potentially exposing others to COVID-19, such as a hotel or other facility provided by a governmental authority for such purposes.

None of your arguments have merit:

- **SINGER:** Seaplane Adventures was never required to shut down as we are certified as a Part 91 and Part 135 Air Transportation Carrier by the Federal Aviation Administration and were therefore classified as an essential air transportation business since the beginning of the shelter-in-place orders.

RESPONSE: Certification status with the FAA is irrelevant. What matters here is what the Marin County Health Officer has ordered. The Marin County Health Officer has not created an exception for seaplane sightseeing tours or leisure travel businesses.

- **SINGER:** Additionally, as of June 5th we fall under charter boat operators being allowed to reopen as we are regulated as a marine vessel by the United States Coast Guard when navigating on the water.

RESPONSE: The Health Officer approved “charter boat” guidelines with boats in mind. The confined space of an aircraft cabin has not been considered, and likely raises additional health concerns. Just because a seaplane is a “vessel” when it is taxiing on water doesn’t change that fact: the Health Officer didn’t intend to allow for seaplane tours or leisure travel.

- **SINGER:** Thirdly we fall under outdoor activities guidelines as our activities take place entirely outdoors.

RESPONSE: If you rented kayaks, this would be true. (See examples of permitted “outdoor-type businesses” at <https://marinrecovers.com/parks-outdoor-recreation/>.) Sitting inside a seaplane, even with the windows open for the duration, cannot fairly be construed as being “outdoors.”

- **SINGER:** Finally, today marks the reopening of all interior retail stores across Marin County, which we also fall under.

RESPONSE: Offering a sightseeing tour in a seaplane is not “indoor retail.” Indoor retail means “indoor shopping.” (See <https://marinrecovers.com/parks-outdoor-recreation/>)

Failure to comply with the order will result in a citation being issued for each continued violation.

Respectfully,

BRENTON SCHNEIDER, SERGEANT
Public Information Officer (PIO)
Marin County Sheriff's Office
1600 Los Gatos Dr. #200
San Rafael, CA 94903
Office: (415) 473-5567

Cell: (628) 888-9398
24hr Dispatch: (415) 479-2311
b_schneider@marinsheriff.org

In Partnership with our Communities

From: Aaron Singer <aaron@seaplane.com>
Sent: Friday, June 12, 2020 10:04 AM
To: Schneider, Brenton <B_Schneider@marinsheriff.org>
Subject: Re: Operations during COVID-19

Sheriff Schneider:

Though I appreciate your addressing complaints by a “multitude” of Strawberry residents who have had an axe to grind with Seaplane Adventures since their multiple failed attempts to use the County to shut us down in 2017 and again in 2019/2020, we nonetheless resolutely dispute your assertion that we do not fall under “allowed business operations”.

Seaplane Adventures was never required to shut down as we are certified as a Part 91 and Part 135 Air Transportation Carrier by the Federal Aviation Administration and were therefore classified as an essential air transportation business since the beginning of the shelter-in-place orders. Additionally, as of June 5th we fall under charter boat operators being allowed to reopen as we are regulated as a marine vessel by the United States Coast Guard when navigating on the water. Thirdly we fall under outdoor activities guidelines as our activities take place entirely outdoors. Finally, today marks the reopening of all interior retail stores across Marin County, which we also fall under.

Seaplane Adventures takes the responsibility for the health and safety of our employees and customers at the utmost seriousness and has put strict health and safety guidelines in place, including a COVID-19 Site Specific Protection Plan, as per the Marin County Health Department and the U.S. Center for Disease Control, to protect our employees and our customers. These guidelines include:

- All employees and customers are required to wear facial masks or facial coverings at all times when on Seaplane Adventures (SA) premises or on SA aircraft
- When inside the reception office and out on the docks, all customers are required to maintain recommended six feet social distancing
- We have installed plexiglass barriers in our reception area separating employees from customers for their mutual protection
- All customers are RERQUIRED to submit to having their temperatures taken prior to embarkation on our seaplanes
- Aircraft interior surfaces and seating are thoroughly wiped down with CDC recommended disinfectants prior to and directly after every flight
- Seating capacity has been reduced in our aircraft to create maximum social distancing between passengers (well below the 10 passengers allowed under charter operator guidelines)

Embarkation and disembarkation of passengers are directed solely by authorized SA personnel

- Hand sanitizer is available to all employees and customers

Please inform your complainants of these facts and policies.

Thank you-
Aaron Singer

Aaron Singer | **CEO** | **Seaplane Adventures**
aaron@seaplane.com | (c) 415-272-6540
www.seaplane.com

COME FLY WITH US!

From: "Schneider, Brenton" <B_Schneider@marinsheriff.org>
Date: Thursday, June 11, 2020 at 2:43 PM
To: Aaron Singer <aaron@seaplane.com>
Subject: Operations during COVID-19

Aaron,

I contacted your business and asked to book a flight and was told you are flying Fridays, Saturdays and Sundays.

Unfortunately, your business does not fall under allowed business operations during the Shelter-in-Place Order. In addition, we have received a multitude of complaints regarding your business still being open.

Please let me know when you receive this. I am happy to discuss over the phone if you would like. Until allowed by Public Health, your business needs to cease any operations related to commercial sight-seeing flights.

Respectfully,

BRENTON SCHNEIDER, SERGEANT
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